

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 524

2018 Regular Session

Carpenter

PUBLIC OFFLS/EMPS: Requires policies prohibiting sexual harassment and annual training on preventing sexual harassment

Synopsis of Senate Amendments

1. Adds inappropriate conduct to the conduct of a sexual nature listed in an agency's policy that shall not be tolerated.
2. Adds requirements that an agency's policy: (a) include a description of the behavior the agency defines as inappropriate conduct; (b) detail who may make a complaint and to whom a complaint may be made, including alternative designees; (c) require documentation of actions taken on a complaint; and (d) apprise public servants of applicable federal and state law.
3. Adds requirement for additional education and training for supervisors and any persons designated by the agency to accept or investigate a complaint of sexual harassment.
4. Adds requirement that an agency's annual report include the number of complaints which resulted in a sexual harassment finding and the number of complaints in which the finding of sexual harassment resulted in discipline or corrective action.
5. Adds requirement for the office of risk management to submit an annual report to the presiding officers of the legislature containing specified information regarding complaints of sexual harassment which are filed with office for adjustment.
6. Relative to the requirement for the Dept. of State Civil Service to develop and make available material at no cost to assist in compliance with proposed law, limits the requirement to state agency heads and employees.
7. Provides that as required by Const. Art. VII, Section 14, the Dept. of Civil Service shall recoup costs of copying or reproducing training material on a compact disc and recoup the cost of mailing the disc to the agency, unless the agency is subject to fees assessed for in-service training pursuant to present law.

Digest of Bill as Finally Passed by Senate

Proposed law requires each agency head to develop and institute a policy to prevent sexual harassment which is applicable to all public servants in the agency. Requires the policy at a minimum to contain:

- (1) A clear statement that unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct has certain effects and such conduct will not be tolerated.
- (2) A description of the behavior the agency defines as inappropriate conduct, including examples.
- (3) An effective complaint or grievance procedure that includes taking immediate and

appropriate action and identifies who may make a complaint and to whom a complaint may be made, including alternative designees. Further requires actions taken on the complaint to be documented.

- (4) A clear prohibition against retaliation for filing a complaint, testifying, or participating in any way in an investigation.
- (5) A statement apprising public servants of applicable federal and state law on sexual harassment.

Proposed law requires that each agency head ensure that its policy and its complaint procedure is prominently posted on its website or, if the agency does not have a website, that a notice on how to obtain the information is posted in a conspicuous location in each of the agency's offices.

Proposed law requires each public servant to receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his public employment or term of office. Provides that an agency head shall require supervisors and those designated to accept or investigate a complaint in his agency to receive additional education and training. Provides that the education and training may be received either in person or via the internet through training and education materials approved by the agency head.

Proposed law requires each agency head to ensure that each public servant in the agency is notified of the agency's policy and the mandatory training requirement. Provides that the agency head, or his designee, shall be responsible for maintaining records of compliance. Provides that each public servant's record of compliance shall be a public record and available in accordance with present law (Public Records Law).

Proposed law further requires each agency head to compile an annual report, due no later than Feb. 1st, containing information from the previous calendar year regarding his agency's compliance with the requirements of proposed law including:

- (1) The number and percentage of public servants in his agency who have completed the training requirements.
- (2) The number of sexual harassment complaints received by his agency.
- (3) The number of complaints which resulted in a finding that sexual harassment occurred.
- (4) The number of complaints in which the finding of sexual harassment resulted in discipline or corrective action.
- (5) The amount of time it took to resolve each complaint.

Proposed law specifies that these reports are public records and available to the public in the manner provided by present law (Public Records Law).

Proposed law requires agency heads in the executive branch of state government to submit the report to the division of administration, agency heads in the legislative branch of state government to the Legislative Budgetary Control Council, and agency heads in the judicial branch of state government to the chief justice of the supreme court by Feb. 15th each year.

Proposed law further requires the office of risk management to submit an annual report to the presiding officers of the legislature containing the following information related to the complaints of sexual harassment filed with the office for adjustment:

- (1) The total number of sexual harassment cases filed with the office.

- (2) The number of cases which are settled and the total monetary amount paid in settlements.
- (3) The number of cases for which a lawsuit is filed and the disposition of each case.
- (4) The monetary amount paid for attorney fees, court costs, expert witness fees, and any other litigation costs to defend each sexual harassment complaint.

Proposed law requires the Dept. of State Civil Service to develop and make available education and training materials, at no cost, to assist state agency heads and state employees in complying with the requirements of proposed law. Further provides that as required by the present constitution (La. Const. Art. VII, §14) the department shall recoup costs of copying or reproducing the training material on a compact disc and recoup the cost of mailing the disc to the agency, unless the agency is subject to the fees assessed for in-service training pursuant to present law (R.S. 42:1262(A)).

Proposed law defines "agency", "agency head", "elected official", "governmental entity", "public employee", and "public servant" for its purposes.

Proposed law specifies that the first reports required shall be due in Feb. of 2020.

Effective Jan. 1, 2019, however, requires each agency head to take all actions necessary to bring his agency in compliance with proposed law requirements regarding the policy and training as soon as possible.

(Adds R.S. 42:341-345)